

## Criminal Prosecution

### Why No Prosecutions?

- ! Any lack of news reports or prosecutions of vote fraud only proves under-reporting or a lack of dedication to prosecuting vote fraud, but does not prove that vote fraud doesn't exist. In affirming Indiana's voter identification law (which requires photo id), the U.S. Court of Appeals for the Seventh Circuit states:

"The absence of prosecutions is explained by the endemic under-enforcement of minor criminal laws (minor as they appear to the public and prosecutors, at all events)." The Court also wrote, "But that lacuna [that there are no reports of vote fraud in Indiana] may reflect nothing more than the vagaries of journalists' and other investigators' choice of scandals to investigate."

House Bill 218 protects elections by giving prosecutors a clear basis for the prosecution of vote fraud.

[Source: Indiana Democratic Party v. Rokita, U.S. Court of Appeals for the Seventh Circuit, decided January 4, 2007].

- ! In the 1992 presidential election, there were 6,707 illegal ballots cast in Harris County alone. A grand jury declined to indict any of the 6,707 voters, apparently noting that many of the violations stemmed from ignorance of the law.
- ! Voting violations are almost impossible to prosecute, according to one prosecutor. It is the Legislature's job, and we have chosen to do nothing. We would rather have a loose system that encourages all people to vote, legally or illegally.
- ! The primary problem with prosecution is that an eyewitness must actually testify that a person showed up at the polls and cast a ballot. The only people who could possibly be able to witness the violation are the election judges and clerks, and there is usually too much activity for a particular individual to stick in their minds.

### State Law

- ! Under state law, knowingly casting an illegal ballot is a third-degree felony. The most common violations include casting another person's vote, voting in the wrong precinct, and voting despite being convicted of a felony offense.

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! Most prosecutors agree that the only way to curb voter fraud effectively is to tighten up the law and make it more difficult for a voter to cast a ballot for another person.

! Former Harris County District Attorney John Holmes said that his office regularly received a list of suspected voting violations. They would investigate the possible violations, but because the law is so weak governing the prosecution of voter fraud, there is little they could do. Holmes said that during his 17 years in office he did not remember even one criminal case against an individual for illegal voting.